

REMARKS

Examiner Interview

Applicants hereby acknowledge with appreciation the in-person interview conducted with Examiner Bawa on November 30, 2000. The Examiner Interview Summary, together with the following remarks, will summarize the issues discussed at the interview.

Related Applications

Pursuant to MPEP §2001.06(b), the Examiner is hereby advised of the following copending applications and published U.S. Patents. The examiner is advised to consider the subject matter therein, as related to the present application.

<u>Serial No.</u>	<u>U.S. Patents</u>
09/506,834	6,131,566
09/570,789	6,143,277
09/562,946	
09/570,725	
08/829,562	

By bringing these applications to the Examiner's attention, Applicant does not waive any confidentiality with respect to these applications. The two U.S. Patents will be submitted in a subsequent Information Disclosure Statement.

Amendments

The claims have been amended to more particularly point out and distinctly claim the subject matter Applicant regards as the invention. This amendment cancels claims 23, 29, 33, 35-38 and 51. Claims 22, 24-28, 30-32, 34, 39-50 and 52-54 are pending. Support is found in the application as originally filed. Original claim 22 and the specification on page 6, lines 9-14 provides basis for new claim 52. No new matter has been added.

Applicant has amended claim 22 to recite "a can in communication with a drug metering valve" to more broadly claim the invention.

During the Interview, Applicant and the Examiner agreed that these amendments are formal in nature and do not add any new matter to the claims or raise any new issues of patentability. Furthermore, it was agreed that the changes to the claim language would overcome the pending 35 U.S.C. § 112 and 35 U.S.C. §103(a) rejections.

Rejections Under 35 U.S.C. §112, First Paragraph

Claims 22-35. and 37-51 stand rejected under 35 U.S.C. §112, first paragraph as non-enabling. As discussed in the Interview, it was agreed that the amended claims are enabled. Applicant respectfully requests withdrawal of the rejections concerning amount of surfactant, drug particle size, drug amount and coating thickness. The Examiner suggested amending claim 48 to include Markush groups

for fluorocarbon propellants, fluorocarbon polymers and non-fluorocarbon polymers to overcome the enablement rejection.

In response, Applicant has amended the claims as suggested by the Examiner. However, Applicant reserves the option to refile on the broader subject matter. Applicant respectfully withdrawal of the 35 U.S.C. §112, first paragraph rejection.

Rejections Under 35 U.S.C. § 103

Claims 22-35 and 37-51 stand rejected under 35 § U.S.C. 103(a) as being unpatentable over Evans "538 (USP 5,261,538) and Gennaro. As agreed in the Interview, patentable distinctions exist between the presently claimed invention and the cited references. Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection.

Issue Under 37 C.F.R. §1.78(b)

In the outstanding Office Action, it has been asserted that the present claims conflicted with claims of U.S. Patent 6,149,892 and U.S. Application 09/506,834. During the Interview, it was agreed that the claims did not conflict. The Examiner further contends that the claims would be rejected under the doctrine of obviousness-type double patenting and requested that a terminal disclaimer be filed. In response, Applicant would file a terminal disclaimer once the Examiner had indicated patentable subject matter.

Conclusion

For the reasons stated above, Applicant submits that the present claims define patentable subject matter and that this application is in into condition for allowance.

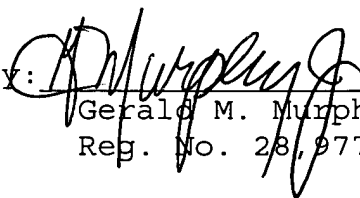
Pursuant to 37 C.F.R. 1.17 and 1.136(a), the Applicant respectfully petition for a one (1) month extension of time for filing a response in connection with the present application. The required extension fee of \$110.00 is attached hereto.

Should the Examiner have any questions or concerns, please contact Applicants' representative, at the telephone number listed below.


If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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